



10/560,191

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Bossard et al.	Examiner:	Unknown
Serial No.:	10/560,191	Group Art Unit:	Unknown
Filed:	December 5, 2005	Docket No.:	15261.3USWO
Title:	DEVICE AND METHOD FOR REMOVING A COMPOSITION FROM THE SKIN		

CERTIFICATE UNDER 37 CFR 1.8:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, Mail Stop Amendment, Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 on May 9, 2006.

By: 

Name: Sharon Trent

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102 AND MPEP § 708.02(viii)

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir:

Applicants request that this application be granted special status under the provisions of 37 C.F.R. § 1.102 and MPEP § 708.02(viii). To support this Petition, Applicants submit the following:

1. The appropriate fee under 37 C.F.R. § 1.17(h) is enclosed.
2. All claims are directed to a single invention, namely, a device for removing a composition and depilated hair from skin.
3. A pre-examination search was made directed to the invention as claimed in the application. The pre-examination search was directed to the following:

U.S. 15/104.001, 111, 144.1, 144.2, 236.01, 236.02, 236.09, 245, 245.1; 30/32, 34.05, 41, 527, 541; 132/202, 212, 221, 320, 333; 604/289, 290, 293; 606/161; D24/147; D28/44, 44.1, 45-48, 99; and D32/46, 49. European and Japanese:

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130.00 DP

A45D 27/44; A61B 17/24 (select); and B26B 21/52. An on-line word search through EAST (all databases) was conducted.

4. Applicants are submitting one copy of each of the references discussed in the following section. Each of these references is also listed on the accompanying Form 1449.

5. A detailed discussion of the references, which points out with particularity of how the claimed subject matter is patentable over the references follows.

- a. JP 2001 061 849 entitled, "Apparatus for Rubbing Dirt Off Tongue", published 2001-03-13

The Abstract describes an apparatus for rubbing dirt off a lingual surface. The apparatus is described as having a grip 2, a neck 5, and a head. The neck 5 has a flexible part 7, and the head is approximately fan-shaped and formed with a sharp rubbing piece 3 at its end and a bristled part 4 there inside.

Regarding claim 1, this reference fails to disclose or suggest a curvature profile on the handle and a broadened end distal from the non-shaving head.

Regarding claim 14, it is noted that claim 14 uses the closed claim language "consisting essentially of." This reference fails to disclose or suggest a planar surface ending in a single straight edge on a non-shaving head. This reference fails to disclose or suggest a curvature profile end distal from the head on the handle.

- b. U.S. Patent Application Publication 2002/012673A1, entitled "Tongue Cleaning Device" published December 12, 2002

This published application describes a tongue cleaning device include a debris retention feature. Certain embodiments, for example, FIGS. 3 - 22, have flexible handles.

Regarding claim 1, this reference does not disclose or suggest a broadened end on a handle that is distal from the non-shaving head.

Regarding claim 14, this reference does not disclose or suggest a head comprising a planar surface, which is a flat top surface and a flat under surface. This reference does not disclose or suggest a broadened end distal from the head on the handle.

c. U.S. Patent No. 2,233,811 entitled "Applicator" issued March 4, 1941

This patent discloses an applicator for holding a small quantity of semi solid material and applying the same to a selected surface. The applicator is described as comprising a pliable body member 10 of spatulate form and a handle 11. The handle 11 is preferably formed integral with the spatulate member 10 so that the applicator may be molded in a single operation from some suitable material such as relatively soft rubber. In the preferred form of the invention, the spatulate member 18 is formed with a transversely extending trough or channel forming a well 14 for holding a supply of the material to be applied preparatory to the actual application. The well 14 is described as being of sufficient depth to render the spatulate member relatively flexible by forming a transversely extending line of weakness so that the end of the spatulate member can be readily flexed along the medial line of the well 14.

Regarding claim 1, this reference does not disclose or suggest a handle with a broadened end distal from the non-shaving head.

With respect to claim 14, this reference does not disclose or suggest a handle with a broadened end distal from the head.

d. U.K. Patent Application GB 2364502, entitled "Spatula for Removing Substances From the Skin" published 30.01.2002

This reference describes a spatula useful for removing depilatory materials applied to the skin. It is described as having an elastically flexible plastic sheet body 4 of S-shaped cross-section (FIG. 2) at the ends of which are elastomeric fins 10, 12, one straight and one like a fish-tale. The fins may be co-molded to the body, or a single elastomeric sheet may be sandwiched between two more rigid plastic sheets, or the elastomer material may surround a reinforcing plastic sheet. The fins may be formed with steps (FIG. 4) to provide a plurality of skin-contacting portions.

With respect to claim 1, although the spatula is described as being flexible, it does not disclose or suggest a distinct joint between the head and the handle, permitting an articulation of the head about the handle.

With respect to claim 14, this reference does not disclose or suggest a single joint between the handle and the head providing limited articulation of the head with respect to the handle.

e. U.S. Patent Des. 387,629, entitled "Spatula" issued December 16, 1997

This reference is a design patent that depicts the ornamental design for a spatula.

With respect to claim 1, this reference does not disclose or suggest a broadened end on a handle that is distal from the non-shaving head. The side view in FIG. 3 shows certain indents in the material, but does not clearly disclose or suggest a joint between the head and the handle that permits articulation of the head about the handle.

With respect to claim 14, this reference does not disclose or suggest a broadened end distal from the head on the handle. While FIG. 3 shows indents in the side view, the reference does not clearly disclose or suggest a single joint between the handle and the head to provide limited articulation of the head with respect to the handle.

f. U.K. Patent Application GB 2384704, entitled "Spatula For Use In Hair Removal" published 06.08.2003

This reference does not qualify as prior art under 35 U.S.C. § 102(b) because it was not published for more than one year prior to the filing date of April 19, 2004 of this application.

This reference does not qualify as prior art under § 102(e) because it was not filed as a U.S. patent application.

This reference would only qualify as prior art under § 102(a) if it were published before the date of the invention. The date of the invention is as early as June 6, 2003, as demonstrated in the Applicants' priority document, attached hereto. Applicants' earliest priority document is GB 0313032.5. Under 35 U.S.C. § 104, Applicants may rely upon this priority document to establish that its date of invention is prior to the date of publication of this reference.

In addition, it is noted that with respect to claim 1, this reference does not disclose or suggest a broadened end on the handle distal from the non-shaving head.

With respect to claim 14, this reference does not disclose or suggest a broadened end distal from the head on the handle.

- g. U.S. D508,296, entitled "Device Having A Non-Shaving Head" issued August 9, 2005 and filed in the U.S. on December 4, 2003

This reference does not qualify as prior art under § 102(b) because it was not published more than one year before Applicants application date of April 19, 2004.

This reference does not qualify as prior art under § 102(e)/103 because it is a common assignee.

This reference does not qualify as prior art under § 102(e) because it is not before the date of invention by Applicants. Applicants point to their priority documents, GB 0313032.5 and GB 0326651.7, dated June 6, 2003 and November 15, 2003, attached hereto. Each of these dates is before the filing date (December 4, 2003) of U.S. D508,296. Under 35 U.S.C. § 104, Applicants may rely upon their priority documents to establish dates of invention.

- h. WO 01/39674A1, entitled "Tongue Cleaning Device In The Form of A Scraper", published 7 June 2001

This reference describes an object for cleaning the tongue and shows a solid semi-ovate cup bearing a thin scraper 3 extended by a handle providing easy handling all in one single piece.

Regarding claim 1, this reference does not show a joint between the head and the handle, permitting an articulation of the head about the handle. The drawings do not show a handle with a broadened end distal from the non-shaving head.

With respect to claim 14, this reference does not show a single joint between the handle and the head permitting limited articulation of the head with respect to the handle. This reference does not disclose or suggest a broadened end distal from the head on the handle.

- i. U.S. Patent No. 2,517,247, entitled "Combined Scraping and Cleaning Device For Windshields Or The Like", issued August 1, 1950

This reference discloses cleaning devices for scraping, de-icing, and cleaning a windshield or other smooth surfaces.

Regarding claim 1, this reference does not disclose or suggest a broadened end distal from the non-shaving head on the handle. It does not disclose a joint between the head and the handle permitting an articulation of the head about the handle.

Regarding claim 14, this reference does not disclose or suggest a broadened end distal from the head on the handle. This reference does not disclose or suggest a single joint between the handle and the head providing limited articulation of the head with respect to the handle.

j. U.S. Des. 285,252, entitled "Tongue Cleaner", issued August 19, 1986

This reference is a design patent that shows the ornamental design for a tongue cleaner.

Regarding claim 1, this reference does not disclose or suggest a broadened end distal from the non-shaving head on the handle. It does not disclose a joint between the head and the handle permitting an articulation of the head about the handle.

Regarding claim 14, this reference does not disclose or suggest a broadened end distal from the head on the handle. This reference does not disclose or suggest a single joint between the handle and the head providing limited articulation of the head with respect to the handle.

k. U.S. Patent No. 4,845,845, entitled "Plastic Shaving Device", issued July 11, 1989

This reference discloses a plastic shaving device for use with a hair removal product.

Regarding claim 1, this reference does not disclose or suggest a broadened end distal from the non-shaving head on the handle. It does not disclose a joint between the head and the handle permitting an articulation of the head about the handle.

Regarding claim 14, this reference does not disclose or suggest a broadened end distal from the head on the handle. This reference does not disclose or suggest a single joint between the handle and the head providing limited articulation of the head with respect to the handle.

1. U.S. Patent No. 6,691,415, entitled "Depilatory Cream Razor", issued February 17, 2004

This reference discloses a depilatory cream removal device for scraping off applied depilatory cream from the face and other parts of the body with the advantage of movement in any direction.

Regarding claim 1, this reference does not disclose or suggest a broadened end distal from the non-shaving head on the handle. It does not disclose a joint between the head and the handle permitting an articulation of the head about the handle.

Regarding claim 14, this reference does not disclose or suggest a broadened end distal from the head on the handle. This reference does not disclose or suggest a single joint between the handle and the head providing limited articulation of the head with respect to the handle.

- m. U.S. Patent Des. 427,376, entitled "Depilatory Shaving Device", issued June 27, 2000

This reference discloses the ornamental design for a depilatory shaving device.

Regarding claim 1, this reference does not disclose or suggest a broadened end distal from the non-shaving head on the handle. It does not disclose a joint between the head and the handle permitting an articulation of the head about the handle.

Regarding claim 14, this reference does not disclose or suggest a broadened end distal from the head on the handle. This reference does not disclose or suggest a single joint between the handle and the head providing limited articulation of the head with respect to the handle.

- n. U.S. Patent Des. 367,707, entitled "Tongue Scraper", issued March 5, 1996

This reference discloses the ornamental design for a tongue scraper as shown.

Regarding claim 1, this reference does not disclose or suggest a broadened end distal from the non-shaving head on the handle. It does not disclose a joint between the head and the handle permitting an articulation of the head about the handle.

Regarding claim 14, this reference does not disclose or suggest a broadened end distal from the head on the handle. This reference does not disclose or suggest a single joint between the handle and the head providing limited articulation of the head with respect to the handle.

- o. U.S. Patent Des. 324,931, entitled "Lotto Ticket Scraper", issued March 24, 1992

This reference discloses the ornamental design for a lotto ticket scraper, as shown and described.

Regarding claim 1, this reference does not disclose or suggest a broadened end distal from the non-shaving head on the handle. It does not disclose a joint between the head and the handle permitting an articulation of the head about the handle.

Regarding claim 14, this reference does not disclose or suggest a broadened end distal from the head on the handle. This reference does not disclose or suggest a single joint between the handle and the head providing limited articulation of the head with respect to the handle.

- p. U.S. Patent Des. 324,912, entitled "Tongue Scraper", issued March 24, 1992

This is a design patent directed to an ornamental design for a tongue scraper, as shown.

Regarding claim 1, this reference does not disclose or suggest a broadened end distal from the non-shaving head on the handle. It does not disclose a joint between the head and the handle permitting an articulation of the head about the handle.

Regarding claim 14, this reference does not disclose or suggest a broadened end distal from the head on the handle. This reference does not disclose or suggest a single joint between the handle and the head providing limited articulation of the head with respect to the handle.



- q. U.S. Patent 3,823,471, entitled "Plastic Safety Razor", issued July 16, 1974

This reference discloses a light, plastic razor.

With respect to claim 1, this reference does not disclose or suggest a non-shaving head. This reference does not disclose or suggest a broadened end distal from the non-shaving head on the handle.

With respect to claim 14, this reference does not disclose or suggest a non-shaving head. This reference does not disclose or suggest a broadened end distal from the head on the handle.

- r. U.S. Patent 3,571,927, entitled "Novel Safety Razor", issued March 23, 1971

This reference discloses a light, plastic safety razor.

With respect to claim 1, this reference does not disclose or suggest a non-shaving head. This reference does not disclose or suggest a broadened end distal from the non-shaving head on the handle.

With respect to claim 14, this reference does not disclose or suggest a non-shaving head. This reference does not disclose or suggest a broadened end distal from the head on the handle.

- s. U.S. Patent No. 5,038,472, entitled "Pivoting Safety Razor Assembly", issued August 13, 1991

This reference discloses a pivoting safety razor assembly for holding a blade device that has a handle and a flexible member which interconnects the handle with the blade device. The blade device defines a cutting edge, and the flexible member bends in response to shaving forces to move the handle in a rotational motion about the cutting edge.

With respect to claim 1, this reference does not disclose or suggest a non-shaving head. This reference does not disclose or suggest a broadened end distal from the non-shaving head on the handle.

With respect to claim 14, this reference does not disclose or suggest a non-shaving head. This reference does not disclose or suggest a broadened end distal from the head on the handle.

- t. U.S. Patent No. 5,771,591, entitled "Disposable Resilient Razor", issued June 30, 1998

This reference discloses a disposable resilient razor, in which the razor includes a handle and a razor head interconnected by a resilient, flexible, reduced diameter area of a plastic material of one piece construction.

With respect to claim 1, this reference does not disclose or suggest a non-shaving head.

With respect to claim 14, this reference does not disclose or suggest a non-shaving head.

- u. U.S. Patent No. 6,973,730, entitled "Flexible Razor And Dispenser With Pivoting Head", issued December 13, 2005

This reference is a divisional of an application filed March 14, 2003. It discloses a razor including a handle, a flexible neck extending from the top of the handle and a blade-carrying razor head pivotally fitted on the distal end portion of the neck.

With respect to claim 1, this reference does not disclose or suggest a non-shaving head. This reference does not disclose or suggest a broadened end distal from the non-shaving head on the handle.

With respect to claim 14, this reference does not disclose or suggest a non-shaving head. This reference does not disclose or suggest a broadened end distal from the head on the handle.

- v. U.S. Patent No. 5,560,106, entitled "Resilient Floating Head Razor", issued October 1, 1996

This reference discloses a razor structure incorporating a resilient connection between a razor handle and a razor head which enables the razor head to resiliently float in relation to the handle with the floating head being capable of resilient movement in all directions of movement in which the resilient characteristics of movement of the razor head exerts optimum blade pressure against the skin surface when the blade or blades on the razor head are oriented in optimum relation to the skin surface being shaved. FIG. 20 shows a specific flexible joint between the handle and the head.

With respect to claim 1, this reference does not disclose or suggest a non-shaving head.

With respect to claim 14, this reference does not disclose or suggest a non-shaving head.

- w. U.S. Patent No. 3,624,856, entitled "Applicator For Use In Spreading A Shaving Material Or The Like Dispensed From A Container", December 7, 1971

This reference discloses an applicator which has means formed at its upper end to permit it to be readily hung on an aerosol container and supported thereby in which when removed therefrom is used to spread the shaving material or the like dispensed from the aerosol container.

With respect to claim 1, this reference fails to disclose or suggest a joint between the head and the handle permitting an articulation of the head about the handle.

With respect to claim 14, this reference does not disclose or suggest a single joint between the handle and the head providing limited articulation of the head with respect to the handle.

- x. U.S. Patent No. 4,232,785, entitled "Razor Storage", issued November 11, 1980

This reference discloses a razor storage arrangement including a container with a protective cover over a dispensing opening at the upper end of the container. A razor is releasably retained on the cover with the head of the razor in a recess in the cover and a razor handle extending downwardly below the container along the side of the container.

With respect to claim 1, this reference does not disclose or suggest a non-shaving head. This reference does not disclose or suggest a broadened end distal from the non-shaving head on the handle.

With respect to claim 14, this reference does not disclose or suggest a non-shaving head. This reference does not disclose or suggest a broadened end distal from the head on the handle.

- y. U.S. Patent No. 4,656,738, entitled "Razor Holding Means For Shaving Cream Cans", issued April 14, 1987

This reference discloses one or more recesses provided in a shaving cream can for releasably engaging the head or handle, or both, of a safety razor for supporting the razor on the can.

With respect to claim 1, this reference does not disclose or suggest a non-shaving head. This reference does not disclose or suggest a broadened end distal from the non-shaving head on the handle.

With respect to claim 14, this reference does not disclose or suggest a non-shaving head. This reference does not disclose or suggest a broadened end distal from the head on the handle.

z. U.S. Patent No. 4,695,029, entitled "Support Device For Securing A Razor To A Shaving Cream Dispenser", issued September 22, 1987

This reference discloses an adapter for securing a cosmetic implement to a cosmetic dispensing unit, such as a razor secured to a shaving cream can.

With respect to claim 1, this reference does not disclose or suggest a non-shaving head. This reference does not disclose or suggest a broadened end distal from the non-shaving head on the handle.

With respect to claim 14, this reference does not disclose or suggest a non-shaving head. This reference does not disclose or suggest a broadened end distal from the head on the handle.

aa. WO 02/32632, entitled "Safety Razors", published 25 April 2002

This reference discloses a safety razor with a flexible blade assembly having a plurality of blades with parallel cutting edges mounted on a resiliently compliant support structure that includes several spring elements disposed along the blade unit to oppose local deformation of the blade unit under shaving forces imposed in the regions where the spring elements act.

With respect to claim 1, this reference does not disclose or suggest a non-shaving head. This reference does not disclose or suggest a broadened end distal from the non-shaving head on the handle.

With respect to claim 14, this reference does not disclose or suggest a non-shaving head. This reference does not disclose or suggest a broadened end distal from the head on the handle.

- ab. WO 2005/096875, entitled "Device And Method", published 20 October 2005

This reference has an international filing date of 6 April 2005. It does not qualify as prior art under § 102(e) because it is after Applicants' § 102(e) date of April 19, 2004.

This reference does not qualify as prior art under § 102(a) because Applicants' priority documents are dated June 6, 2003 and November 15, 2003 (attached hereto). These priority documents predate the filing date of the WO 2005/096875 reference, and the dates of the priority documents may be relied upon to establish dates of invention under 35 U.S.C. § 104.

6. Summary

In summary, it is respectfully requested that this application be accorded special status for the reasons provided above. If there are any questions regarding this communication, the Examiner is invited to telephone the undersigned at the below listed telephone number.

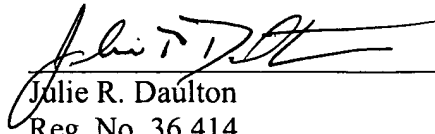
Please charge any additional fees or credit overpayment to Deposit Account No. 13-2725. A duplicate of this sheet is enclosed.

If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below listed telephone number.

Respectfully submitted,

MERCHANT & GOULD P.C.  
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Date: 9 May 2006

  
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